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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,453	04/02/2001	Brian Thomas Dorricott	P-3018.001	9505

7590 09/03/2003

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EXAMINER

KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2122

5

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/824,453

Applicant(s)

DORRICOTT, BRIAN THOMAS

Examiner

Chuck O Kendall

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other:  |

DETAILED ACTION

1. This action is in response to the application filed 04/02/01.
2. Claims 1-7 have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1,2,5 & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Parthesarathy et al. USPN 6,353,926 B1.

Regarding claim 1, Parthesarathy anticipates a method of updating computer software and/or data in a recipient computer comprising the steps of said recipient computer sending an update request as an e-mail message to an owner computer (2:17-23); said owner computer analyzing the update request and preparing a corresponding update response (6:1-30); said owner computer sending said update response as an e-mail message to said recipient computer (6:1-30, 10:1-5); and said recipient computer responding to said update response by updating said software and/or data (6:1-30, 10:1-5).

Regarding claim 2, a method as claimed in claim 1 in which the update request is compiled at the recipient computer by reference to a data directory, and the update response is compiled at the owner computer by reference to the same data directory, only files identified in the update request being updated in the update response (10:1-10, for data directory see registry).

Regarding claim 5, a method as claimed in claim 1 in which the e-mail update request is transmitted via the Internet (10:1-5).

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Regarding claim 7, a method as claimed in claim 1 in which the computer software and/or data to be updated consists of one of a virus signature, a software application or data to be backed-up by the owner computer (for software application see fig3, 108 see software update).

### Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parthesarathy et al. USPN 6,353,926 as applied in claim 2 in view of Davis et al. USPN 5,937,160.

Regarding claim 3, Parthesarathy discloses all the claimed limitations as applied in claim 2. Parthesarathy doesn't explicitly disclose in which said files updated in the update response are sent as attachment files in said e-mail message. However, Davis does disclose this feature (9: 1-10). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Parthesarathy with Davis because, using attachments during emailing is a general practice and enables documents of different formats to be transmitted.

6. Claims 4 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parthesarathy et al. USPN 6,353,926 as applied in claim 1 in view of Cantos et al. USPN 6,529,784 B1.

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Regarding claim 4, Parthesarathy discloses all the claimed limitations as applied in claim 1 above. Parthesarathy doesn't explicitly disclose in which the update response is protected by a password. However, Cantos does disclose this feature, (10:60). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Parthesarathy with Cantos because, it ensures that communications between the control server and agents associated with the customer network are secure and uncorrupted (Cantos 10:56-60).

Regarding claim 6, a method as claimed in claim 1 in which the recipient computer is protected by a fire-wall through which it communicates in sending said e-mail update request (Cantos, 4:56-60).

#### Correspondence Information

7. Any inquires concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.

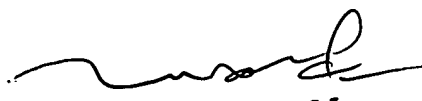
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam *can be* reached at (703) 305-4552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

*For facsimile (fax) send to 703-7467239 official and 703-7467240 draft*

*Chuck O. Kendall*

*Software Engineer Patent Examiner  
United States Department of Commerce*

  
**TUAN Q. DAM  
PRIMARY EXAMINER**